



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

DEPARTMENT ORDER

IN THE MATTER OF:

| | | |
|--|---|---|
| THE LANE CONSTRUCTION CORPORATION'S |) | LICENSE |
| acquisition of White Brothers, Inc., T&M |) | TRANSFERS |
| Development, LLC, and T&M Holdings, LLC's |) | |
| quarries in Westbrook and Windham, and a |) | (Protection of Natural |
| gravel pit in Limington and Waterboro, Maine |) | Resources; Mining Notice of |
| (#) | | Intent to Comply; Air Emissions) |

Pursuant to Maine law, the applicable provisions of 38 M.R.S.A., §§ 344(1) & (1-A), Maine DEP's *Rules Concerning the Processing of Applications*, 06-096 CMR 2; *Protection of Natural Resources*, 38 M.R.S.A., § 480; *Performance Standards for Excavations for Borrow, Clay, Topsoil, or Silt*, 38 M.R.S.A., § 490-A to 490-N; *Performance Standards for Quarries*, 38 M.R.S.A., § 490-W to 490-EE; *Protection and Improvement of Air* laws, 38 M.R.S.A., §§ 581 to 610-A; and rules promulgated pursuant to these laws, the Maine DEP has considered the application of The Lane Construction Corporation ("Lane") with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

A. Application. Lane submitted an application to Maine DEP for the transfer of licenses. The application sought to transfer to Lane all active Maine DEP licenses, as defined in 06-096 CMR 2.1(J), any modifications, condition compliance orders, all other approvals, and all applications pending in the name of White Brothers, Inc. ("White"), and T&M Development, LLC ("T&M"), relating to quarries in Westbrook and Windham, and a gravel pit in Limington and Waterboro, Maine (hereinafter referred to as the "Facilities"). A schedule of permits and applications that were the subject of that application, and this Department Order, is set forth in Appendix A. Maine DEP accepted Lane's license transfer application as complete for processing on 3/4/10. Pursuant to 06-096 CMR 2.21(C)(1), while an application for the transfer of licenses is pending, the transferee is liable for any violations of the terms and conditions of the original license. Under 06-096 CMR 2.21(C)(1), before the Department may transfer a license a transferee is required to demonstrate to the Department's satisfaction the financial and technical capacity and intent to: (a) comply with all terms and conditions of the applicable license, and (b) satisfy all applicable statutory or regulatory criteria.

DEPARTMENT ORDER
IN THE MATTER OF:

The Lane Construction Corporation's acquisition of White Brothers, Inc., *et al.*

License Transfers

B. History

(1) The Transaction. On February 18, 2010, Lane acquired from White Brothers certain specified wholly-owned assets located in Westbrook, Limington, and Waterboro, Maine; from T&M Development, LLC, certain specified wholly-owned assets located in Westbrook and Windham, Maine; and from T&M Holdings, LLC, certain specified wholly-owned assets located in Westbrook, Maine. Both T&M entities are limited liability companies formed to hold certain real estate and equipment leased to White Brothers for use in the business. Both are controlled, directly or indirectly, by the principals and majority owners of White Brothers.

(2) Operations. White Brothers' and T&M's operations included quarries and a rock crusher located in Westbrook and Windham, Maine, and a gravel pit in Limington and Waterboro, Maine.

2. TRANSFER REQUIREMENTS

The following information regarding Lane, White, and T&M was submitted in support of the transfer application:

A. Full Name and Address. The full name and address of the new owner is:

The Lane Construction Corporation
953 Odlin Road, P.O. Box 103
Bangor, Maine 04401

B. Certification. Lane certifies that there will be no increase in air emissions beyond that provided for in the existing licenses, either in quantity or type.

C. Title, Right, or Interest. Lane submitted copies of Quitclaim Deeds With Covenant, dated February 18, 2010, executed by Michael S. White, President, White Brothers, Inc., and authorized signatory for T&M Development, LLC; and T&M Holdings, LLC. The parties have provided sufficient evidence of title, right, or interest in the Facility to allow the transfer to Lane of the Facility's licenses, permits, approvals, registrations, variances, certifications and amendments thereto, condition compliance orders, and pending applications.

D. Financial Capacity and Intent. Lane submitted an internally prepared balance sheet statement for the year ending December 31, 2009, signed by Vincent J. Caiola, Treasurer, documenting Lane's current assets and liabilities. Lane has demonstrated sufficient financial capacity and intent to assure compliance with all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, pending applications, as well as any statutory and regulatory criteria applicable to the facilities.

DEPARTMENT ORDER
IN THE MATTER OF:

The Lane Construction Corporation's acquisition of White Brothers, Inc., *et al.*

License Transfers

E. Technical Capacity and Intent. Lane has extensive quarrying and pit operations in Maine in addition to the Facilities. Lane submitted resumes of employees responsible for environmental compliance which satisfactorily document their technical ability to operate the Facilities in accordance with applicable laws, regulations, and license and permit conditions. Lane has indicated its intent to operate the rock crusher licensed in A-804071-C-R/A (SM) on the current site. The Facilities' and applicant's regulatory history with the Maine DEP demonstrates that the environmental personnel are competent to properly manage the Facilities. The information submitted in the application provides sufficient evidence that Lane has the technical capacity and intent to comply with all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, pending applications, and any statutory and regulatory criteria applicable to the Facilities.

BASED ON THE ABOVE FINDINGS OF FACT, the Maine DEP CONCLUDES that Lane has demonstrated the technical and financial capacity and intent to comply with the conditions of all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders and pending applications associated with the facilities described in this Order's findings, including specifically those licenses and applications listed in Appendix A, and to satisfy all applicable statutory and regulatory criteria.

THEREFORE the Maine DEP APPROVES the application of The Lane Construction Corporation subject to the following conditions:

1. Natural Resources Protection Act Standard Conditions of Approval (copy attached).

DONE AND DATED AT AUGUSTA, MAINE THIS 24th DAY OF MARCH 2010.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Sody L. Breton
for David P. Littell, Commissioner

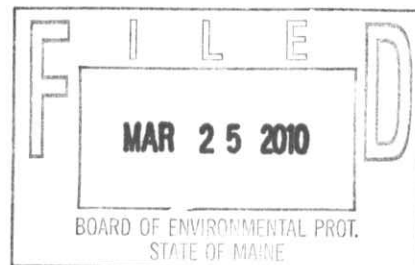
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: March 4, 2010

Date application accepted for processing: March 4, 2010

Date filed with the Board of Environmental Protection _____

This order written by Malcolm C. Burson, Office of the Commissioner



DEPARTMENT ORDER
IN THE MATTER OF:

The Lane Construction Corporation's acquisition of White Brothers, Inc., *et al.*

License Transfers

APPENDIX A: CURRENT LICENSES AND APPLICATIONS

| AIR QUALITY ORDERS | | |
|-------------------------|--|----------|
| NUMBER | DESCRIPTION | APPROVED |
| AIR EMISSIONS LICENSES: | | |
| A-804-71-C-R/A (SM) | CHAPTER 115 AIR EMISSIONS LICENSE (ROCK CRUSHER) | 10/20/05 |
| | | |

| LAND ORDERS | | |
|----------------------------|--|----------|
| NUMBER | DESCRIPTION | APPROVED |
| LAND DEVELOPMENT LICENSES: | | |
| GPID #352 | NOTICE OF INTENT TO COMPLY [WESTBROOK, M-QUARRY] | 4/5/99 |
| L-23403-80-A-N | NRPA FRESHWATER WETLAND ALTERATION [WESTBROOK] | 1/17/07 |
| L-23403-80-B-N | PERFORMANCE STANDARDS FOR QUARRIES - VARIANCE | 4/2/07 |
| L-23403-80-C-A | PERFORMANCE STANDARDS FOR QUARRIES - VARIANCE | 1/26/10 |
| GPID #644 | NOTICE OF INTENT TO COMPLY [WESTBROOK, S-QUARRY]* | 1/3/07 |
| GPID #305 | NOTICE OF INTENT FOR EXCAVATION [LIMINGTON] | 4/5/97 |
| L-24578-80-A-N | PERFORMANCE STANDARDS FOR GRAVEL MINING - VARIANCE | 7/1/09 |

*also known as "T&M Quarry"

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DEPARTMENT ORDER
IN THE MATTER OF:

The Lane Construction Corporation's acquisition of White Brothers, Inc., *et al.*

License Transfers



DEPARTMENT OF ENVIRONMENTAL PROTECTION
NATURAL RESOURCE PROTECTION ACT (NRPA)
STANDARD CONDITIONS

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET.SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. **Approval of Variations From Plans.** The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. **Compliance With All Applicable Laws.** The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. **Erosion Control.** The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. **Compliance With Conditions.** Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. **Initiation of Activity Within Two Years.** If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years form the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- F. **Reexamination After Five Years.** If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- G. **No Construction Equipment Below High Water.** No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- H. **Permit Included In Contract Bids.** A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- I. **Permit Shown To Contractor.** Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

Revised (4/92)
DEP LW0428



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